

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

19 -CR-81 WJ

KENDON GOSSETT,

Defendant.

DEFENDANT GOSSETT'S PROPOSED QUESTIONS FOR JUROR VOIR DIRE

Defendant Kendon Gossett, by and through counsel, Samuel L. Winder, Romero & Winder, P.C., respectfully requests, pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, that the Court include the following questions in its examination of prospective jurors, if not normally asked by the Court. The Court is further requested to allow counsel for counsel for the Defendant to pursue more detailed questioning if further inquiry is appropriate and, if desirable, to conclude with an inquiry as to whether the particular fact or circumstances would influence a juror in favor or against either the United States or the Defendant. The Court is requested to invite jurors to approach the bench to respond outside the hearing of the rest of the panel if the prospective juror so desires.

1. Introduction of the parties:
 - a. Seated at the Defendant's table are Samuel L. Winder and Mr. Kendon Gossett. I will be trying this case on behalf of Mr. Gossett. I am a law partner with Joe Romero, Jr. whose business is at 1905 Lomas Blvd., NW. Do any of you, your relatives, or close friends, to the best of your knowledge, know me or Mr. Joe Romero?

- b. Does any member of the panel know my client, Mr. Gossett?
- 2. This case involves the prosecution of my client for the allegation of interstate communications containing a threat to injure the person of another.
 - a. Do you any of you know anything about this case or read about this case in the newspaper, television or on the internet. If so, what do you know about the case?
 - b. If selected to serve as a juror, will you be able to set aside this prior information and decide the case solely on the evidence presented in the courtroom?
 - c. Is there anything about the prior information you possess that would prevent you from being a fair and impartial juror for both sides?
 - d. Is there anything about the nature of these charges that would cause you a problem if you were chosen as a juror?
- 3. There will be testimony in this case from individuals employed with the Federal Bureau of Investigation. Has any member of the jury panel or a close friend or a family member ever worked for or had any dealings with either of the FBI?
 - a. Please state the nature of your relationship with that person.
 - b. What was the nature of your dealings?
 - c. When and where was it?
 - d. Is there anyone here who holds strong feelings for the Federal Bureau of Investigation?
 - e. Is there anything about that experience that will prevent you from serving as a fair and impartial juror in this case?
- 4. There will be testimony about a post on Facebook. Specifically, the United States is claiming that Mr. Gossett posted a threat on Facebook. Is there anyone that would be uncomfortable just listening to the facts of this case? Is there a better case for you to sit on as a

juror? Would the allegation cause you to believe that you would not be fair or impartial? Have any of you had friends or relatives that have either been victims of an alleged threat on Facebook or any other type of social media? Do any of you have a Facebook or Twitter account? Have any of you heard any stories on the news or internet about an alleged threat on Facebook or any other form of social media?

- a. Please state the nature of your relationship with that person.
 - b. Please describe what you experienced?
 - c. When and where did this occur?
 - d. Is there anything about that experience that will prevent you from serving as a fair and impartial juror in this case?
5. Has anyone ever been falsely accused of something horrible that you did not do? If so, what happened? What were the consequences?
6. As you have heard, some of the witnesses that will be called by the Government are law enforcement officers. Is there any member of the panel who would automatically believe all of an officer or agent's testimony solely because he or she is an officer, without applying the same set of factors that you would apply to the other witnesses?
- a. Is there any member of the panel who, because of some personal experience or some personal belief, would automatically believe the testimony of a law enforcement officer solely because he or she is an officer?
7. Have any members of this jury panel ever served as a juror in any trial, either in state court or federal court? If so:
- a. Was it in state or federal court?
 - b. Was it a civil or criminal trial?

- c. When was the trial?
 - d. Did the jury reach a verdict in that case?
 - e. What result was reached?
 - f. Were you the foreperson of that jury?
 - g. If more than one case, how many cases have you served?
 - h. In any of the criminal cases you heard, were any burdens placed on you that would make it difficult for you to sit on future cases, or did it make you cynical about criminal trials?
 - i. What opinion(s) did you form about the court, lawyers, jury system as a result of your prior jury experience [follow up questions]
 - j. Those of you who have served on a jury have probably been instructed on what lawyers call “the burden of proof”. At this stage, I can state that “reasonable doubt” is a doubt based upon reason and common sense after careful and impartial consideration of all the evidence in this case. Proof beyond a reasonable doubt, therefore, is proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own affairs. Mr. Gossett is presumed innocent, and is not required to prove her innocence or produce any evidence at all. Do any of you have any problem with what I just have said? Do you have any difficulty understanding the difference between the burden of proof in a civil case and the burden of proof in a criminal case? Do any of you have any problem with understanding what I have told you at this stage about “reasonable doubt”? Do any of you have any problem with understanding what I have told you at this state about Mr. Gossett being presumed innocent and not being required to prove her innocence or produce any evidence at all?
8. Have any members of this jury panel ever served on a grand jury, either in state or federal

court? If so:

a. Was it in state or federal court?

b. When did you serve?

9. Another way that people can become familiar with the criminal justice system is to be the victim of a crime or to have a family member who was the victim of a crime. Has any member of this jury panel, or has any member of your immediate family or any close personal friend ever been the victim of a crime? If so:

a. Briefly describe the nature of that crime.

b. When was that crime committed?

c. Was anyone ever charged with the commission of that crime?

d. Were you satisfied with the services of the law enforcement agency?

e. Is there anything about that experience that would prevent you from sitting in this case as a fair and impartial juror?

10. Another way that a person can become familiar with the criminal justice system is to have a close friend or immediate family member arrested, charged or convicted of a crime, or to have been accused or arrested for a crime. Is there anyone who has had that experience? If so:

a. Without naming names, please state whether it was you, a close friend or family member.

b. What was the nature of the situation?

c. When did it occur?

d. Was the person arrested, charged or convicted?

e. Was he or she required to spend any time in jail or prison? Is he or she in or out of prison at the present time?

f. Is there anything about that experience that would prevent you from rendering a fair and impartial verdict in this case?

11. Is any member of the jury panel employed by the United States Government or any agency of the United States Government, or is any member of your family so employed? If so, please state:

a. Who is so employed?

b. By what agency?

c. What is the nature of the employment?

d. Is there anything about that employment that would prevent you from sitting as a fair and impartial juror in this case?

12. Has any member of the jury panel ever been employed by a law enforcement agency, or has any member of your family or a close friend been so employed? If so, please state:

a. Who was so employed?

b. By what agency?

c. What was the nature of the employment?

d. Is there anything about that employment that would prevent you from sitting as a fair and impartial juror in this case?

13. Has any member of the jury panel, or one of your close relatives, ever received any legal training or courses, (including business law), in law enforcement, criminal justice, administration of justice or law, or ever been employed in a law office? If so:

a. What was the nature of such training or employment?

b. Is there anything about that training which would influence your decision in

any way in this case?

14. The members of this panel selected as members of the jury in the case today will be the judges of the facts and must accept the law as the court explains it in its charge. Is there any member of the panel who could not accept this duty?

15. If you are qualified as jurors in this case, you will be required to make a solemn oath that you will try this case and render a verdict based on the evidence and according to the instructions of the court. Is there a member of the panel who could not take this oath?

16. Does anyone hold any religious, philosophical, political, or personal beliefs that would make it impossible for you to return a verdict of guilty even if the evidence and instructions supported such a verdict?

17. Is there any member of the panel who knows of any reason whatsoever why he or she could not sit as a juror in this case with absolute impartiality to both sides, either because of some bias or prejudice personally as to the Mr. Gossett or as to the government, or any other reason?

18. The members of this panel selected as members of the jury in the case today will be the judges of the facts and must accept the law as the Court explains it in its charge. Is there any member of the panel who could not accept this duty?

19. Is there any member of the panel who for any other reason, whether I have touched on it or not, would have difficulty sitting in judgment of the facts in this case?

Respectfully submitted,

/s/ Samuel L. Winder
Samuel L. Winder, Esq.
Attorney for Defendant Kendon Gossett
Romero & Winder, P.C.
1905 Lomas Blvd., NW

Albuquerque, NM 87104
(505) 843-9776

I HEREBY CERTIFY that on the 23rd of April 2019, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

Howard R. Thomas AUSA

/s/ Samuel L. Winder
Samuel L. Winder